

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion
Into the Operations and Practices of Pacific Gas
and Electric Company; Notice of Opportunity for
Hearing; and Order to Show Cause Why the
Commission Should Not Impose Fines and
Sanctions For the December 20, 2003 PG&E
Mission Substation Fire and Electric Outage
Pursuant to Public Utilities Code Section 451.

Investigation 05-03-011
(Filed March 17, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUIRING MEET AND CONFER
PRIOR TO THE PREHEARING CONFERENCE**

Prehearing Conference; Meet and Confer

As previously noticed by the calendar clerk, a prehearing conference (PHC) will be held at the Commission Courtroom in San Francisco on:

Monday, April 11, 2005, 10:00 a.m.

Authorized representatives of Pacific Gas and Electric Company (PG&E) and the Commission's Consumer Protection and Safety Division (CPSD) are directed to meet and confer, in good faith, prior to the PHC, in order to explore one another's views and be prepared more fully to discuss any scoping concerns they may have, as well as the scheduling matters discussed below.

Preliminary Scope

The Order Instituting Investigation (OII) has two stated purposes. One, it constitutes an order to show cause why PG&E should not be found in violation

of Pub. Util. Code § 451 and assessed a penalty for “allowing an unsafe condition to exist at the Mission Substation, which led to an electrical fire and catastrophic power outage on December 20, 2003.” (OII, Ordering Paragraph 2.) Two, it requires PG&E to prepare a status report on the condition of its other indoor substations and provides notice that, based on this report and two existing reports on the 2003 fire, the Commission may order “changes to PG&E’s maintenance, operations, or construction standards ... to improve and ensure system-wide safety and reliability.” (*Id.*, Ordering Paragraph 3.) The PG&E status report is due on or before May 20, 2005; the required content is outlined in Ordering Paragraph 3. The existing reports referenced in the OII consist of CPSD’s Outage Report and PG&E’s Event Report.

The scope of this proceeding appears to be delineated quite clearly in the OII; at the outset it is not apparent to me that additional scoping is necessary. However, at the PHC any party may raise questions about the scope or comment upon it.

Potential for Settlement of Issues Related to Mission Substation Fire

Though I have not seen either CPSD’s Outage Report or PG&E’s Event Report,¹ the OII indicates that at least some of PG&E’s own findings may support a Pub. Util. Code § 451 violation (or violations) stemming from the 2003 Mission Substation fire. Under circumstances where both CPSD and PG&E have completed their own investigations and finalized reports on the 2003 fire, the

¹ The OII provides that these reports “will be placed in the docket designated for this proceeding.” (OII, Ordering Paragraph 1.) Though the procedure and timetable for doing so will be discussed at the PHC, a likely option would be to have each report distributed as part of the prepared testimony and offered in evidence on that basis.

question arises whether this part of the OII can be settled. I urge PG&E and CPSD to seriously explore whether a mutually acceptable settlement is possible, after considering the myriad risks and costs of litigation and the strengths and weaknesses of their own positions.

Scheduling

Rule 57 of the Commission's Rules of Practice and Procedure provides that Commission staff shall open and close in non-rate related investigations, such as this one. Since both CPSD and PG&E have completed investigative reports on the 2003 Mission Substation fire, it would appear that the first two rounds of prepared testimony (CPSD opening, PG&E rebuttal) should not take much time to prepare. Therefore, I direct CPSD and PG&E to explore a mutually convenient schedule that would permit PG&E to distribute its rebuttal concurrently with the status report due May 20.

I also ask the parties to use their professional judgment to propose reasonable dates for the subsequent distribution of CPSD's reply testimony and for evidentiary hearing. At this time, it is my view that the reply testimony should address both the PG&E rebuttal and the status report – it is not apparent that the subject matter must be addressed in two phases. While I recognize that the status report may raise the need for additional discovery and for a supplemental round of prepared testimony (or supplemental rounds), these matters cannot be assessed fully in advance of the report's release. Therefore, following the release of the status report, it may be useful to convene an informal status conference, by telephone or email, and review the schedule at that time. Both PG&E and CPSD should expect this proceeding to move forward to hearings on all issues by fall 2005 at the latest and, as discussed above, should propose provisional dates.

Other Issues

PG&E and CPSD should ensure that one or more authorized representatives attend the PHC and that such representatives are generally familiar with the OII so as to permit useful discussion of any other substantive or procedural issues that may be raised.

IT IS RULED that:

1. Prior to the prehearing conference, PG&E and CPSD shall meet and confer to discuss the matters raised in the body of this ruling.
2. At the PHC, PG&E and CPSD shall be prepared to present a proposed schedule for distribution of prepared testimony and for hearings.

Dated April 1, 2005, at San Francisco, California.

/s/ JEAN VIETH

Jean Vieth
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring Meet and Confer Prior to the Prehearing Conference in Investigation 05-03-011 on all parties of record in this proceeding or their attorneys of record.

Dated April 1, 2005, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

